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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,120	10/26/2001	Petr Peterka	018926-006540US	2132

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EXAMINER	
COLIN, CARL G	

ART UNIT	PAPER NUMBER
2136	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/007,120	PETERKA, PETR	
	Examiner	Art Unit	
	Carl Colin	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 April 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-13,15,16,18 and 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-13,15,16,18 and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *see att* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

1. In response to communications filed on 4/9/2003, applicant pre-amends claims 1-2, 4, 13, and 15 and cancels claims 3, 14, 17, and 20. The following claims 1-2, 4-13, 15-16, and 18-19 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 13 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2.1 Claim 13 recites the limitation "said purchasing" on line 10 and "said encrypted portion" on line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "said providing a key" on line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.1 **Claims 10-12 and 19** are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,041,316 to **Allen**.

3.2 **As per claims 10 and 19, Allen** discloses a method of multicasting program content, said method comprising: providing program content for distribution to a client as part of a multicast distribution (column 3, lines 40-67); distributing a first portion of said program content to said client in an unencrypted format so as to provide a free preview of said program content, encrypting a remaining portion of said program content (column 4, line 66 through column 5, line 25); distributing said encrypted remaining portion of said program content to said client (column 4, line 66 through column 5, line 25).

As per claim 11-12, Allen discloses the limitation of providing a key and utilizing said key to accomplish said encrypting said remaining portion of said program content (column 4, line 66 through column 5, line 25); allowing said client to purchase said program content and providing said client with a key operable to decrypt said encrypted program content after said client purchases said program content (column 4, line 66 through column 5, line 25).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.1 **Claims 1-2, 4-9, 13, 15-16, and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,041,316 to **Allen** in view of Japanese Patent Application JP-11308595 to **Inoue et al**.

4.2 **As per claims 1 and 15, Allen** substantially discloses method of multicasting program content, said method comprising: providing encrypted program for distribution to a client as part

of a multicast distribution content (column 4, line 66 through column 5, line 25); distributing a free preview key for use by said client in decrypting a first portion of said encrypted program content (column 4, line 66 through column 5, line 25); **Allen** also discloses distributing a first portion of said encrypted program content to said client as part of said multicast distribution, wherein said first portion of said encrypted program content is encrypted so as to be decrypted by said client using said free preview key so as to obtain a free preview of said program content (column 4, line 66 through column 5, line 25), **Allen** does not explicitly disclose providing the free preview key to the client prior to distributing the first portion of said encrypted program content to a plurality of client computers, but suggests that the manner in which data requests are received can be varied (column 8, line 58 through column 9, line 5). **Inoue et al** in an analogous art discloses sending the enciphered key using an entitlement control message (ECM) in order to specify the time amount of preview and to manage the preview authorization time (page 3, paragraphs 0020-0022 and page 4, paragraphs 031-0033) and the ECM is sent before the encrypted program content (page 5, paragraphs 0039-0047). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the manner in which data requests are received as suggested by **Allen** to distribute a preview key in an entitlement control message (ECM) prior to distributing the first portion of said encrypted program content to a plurality of client computers as taught by **Inoue et al**. One skilled in the art would have been lead to make such a modification because the entitlement control message includes information of preview authorization and keys so as to perform a preview control, which comprises of setting up a preview prohibition period and controlling use of the keys

before a user is authorized to receive the encrypted program content as suggested by **Inoue et al** (see page 3).

As per claims 2, 4, 16, and 18, Inoue et al discloses the limitation of providing a content key for use by said client in decrypting said first portion of said encrypted program content (page 4, paragraph 0035). Therefore, claims 2, 4, 16, and 18 are rejected on the same rationale as the rejection of claims 1 and 15.

As per claims 5-6, the combination of **Allen** and **Inoue et al** discloses the limitation of offering to said client said free preview of said program content (see **Allen**, column 8, lines 19-42 and column 2, lines 25-51) and further discloses providing a user interface for use by said client in purchasing said program content (column 6, lines 5-18 and column 2, lines 25-51).

As per claims 7-9, the combination of **Allen** and **Inoue et al** discloses any portion of a movie for free to allow a user to make a choice to purchase, but does not explicitly disclose using a movie trailer or advertisement. **Allen**, foe example, discloses using abstract of a content or beginning, summaries, etc. (column 8, lines 26-42). It is very well known in the art that a preview of a movie may consist of movie trailer or advertisement as for example in pay-per-view movie to help one to decide to purchase. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the step of wherein said free preview comprises a movie trailer, an advertisement or beginning of the movie to provide a portion enough to decide on a future purchase as suggested by **Allen** (column 8, lines 26-57).

As per claim 13, Allen discloses providing a server for communication with a plurality of client, configuring said server so as to be operable to provide said program content to said plurality of client computers (column 3, lines 40-67); providing a free preview of said program content to said plurality of client computers (column 4, line 66 through column 5, line 25). **Inoue et al** discloses providing said free preview for a period of time sufficient to allow a predetermined number of said purchasing a client computers to receive said keys operable for decrypting said encrypted portion of said program content (page 3, paragraphs 0020-0022 and page 4, paragraphs 031-0033) during said free preview, providing each purchasing client with a key operable to decrypt at least a portion of an encrypted portion of said program content (pages 3-4, paragraphs 0020, 0032-0035). Therefore, claim 13 is rejected on the same rationale as the rejection of claim 1.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as the art discloses some of the claimed features of a free preview of a program in a multicast distribution system.

US Patents: 6,385,596 Wiser et al; 4,736,422 Mason; 6,510,515 Raith.

5.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cc

Carl Colin
Patent Examiner
June 14, 2005

AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100